

CLINTON GORE '96

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October 22, 1996

Lawrence M. Noble, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, NW
6th Floor
Washington, DC 20463

Re: MUR 4480, The Clinton/Gore '96 Primary
Committee, Inc. and Joan Pollitt, Treasurer

Dear Mr. Noble:

As the designated counsel to the Clinton/Gore '96 Primary Committee, Inc. (the "Committee") and Joan Pollitt, as treasurer, we are providing this response to the complaint in the above-captioned matter. As fully demonstrated below, this complaint is factually and legally insufficient to be considered, absolutely devoid of any evidence or support, and should be dismissed by the Commission forthwith. The information submitted in this response will conclusively demonstrate that the Commission should find no reason to believe that the Committee has violated any provision of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §431 et seq. (the "Act" or "FECA").

A. The Complaint Is Legally Insufficient As A Matter Of Law And Completely Devoid Of Any Factual Support, Compelling Its Dismissal.

Contrary to the requirements of the Act and Commission's regulations, the complainant makes a series of hypothetical and speculative statements in order to reach a conclusion without any facts or support provided to the Commission. The Commission's regulations require a complaint, in order to be valid, to provide a "clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction . . ." 11 C.F.R. §111.4(d)(3). Complainant fails to meet this requirement, because it fails to provide any facts which might constitute a violation of the Act or any FEC regulations.

The gravamen of this complaint is revealed in its very first sentence --

Recent *news stories* have validated what we at the Legal Affairs
Council have *suspected* for some time. (Emphasis added).

No "news stories" are attached or otherwise specifically referred to in the complaint. The

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Committee cannot possibly respond to such vague references to unnamed articles, without reviewing the articles for itself. More importantly, however, complainant's suspicions are clearly legally insufficient to form the basis for a valid complaint or, for that matter, for the Commission to proceed. Complainant admits the basis for its filing is suspicion not facts or evidence in its very first sentence to the Commission. That alone compels dismissal of this complaint.¹

None of complainant's statements give the Committee any indication of a possible violation and make responding to this complaint a near impossibility and a matter of guesswork. Considerably more than one reader's biased view of published reports, even when that view is submitted under oath, is required in order to pass muster for Commission consideration as a complaint. Simply referring to uncorroborated published reports and recharacterizing them as "new stories", without attaching them for respondents to answer, is insufficient to proceed, in the absence of a clear recitation of facts which make out a violation of the Act.

B. Even If The Few Facts Contained In The Complaint Are Accepted As True, The Committee Has Not Violated The Act.

While there are absolutely no discernible facts pertaining to the Committee in this complaint, the suspicion of complainant seems to be that the Committee has made non-qualified campaign expenses. That suspicion is completely unfounded.

The Committee has taken great care to ensure that all of its expenditures are for qualified campaign expenses. The Committee's Treasurer reviews all invoices which are submitted and any back up documentation and makes expenditures accordingly. Obviously, the Committee will be subject to the Commission's comprehensive audit, and the Commission's auditors will have the opportunity to review expenditures to determine whether that are for qualified campaign expenses.

Complainant's suspicions pertain to expenditures made by the Committee to Dick Morris. The Committee had an arm's length consulting arrangement with Dick Morris, whereby Dick Morris performed political consulting services on behalf of the Committee. Through August of 1996, Dick Morris provided daily advice on both general campaign strategy and more specifically on media services and targeting strategy.

All expenditures to Dick Morris were for payments for his consulting services performed and for his own travel expenses incurred in the performance of that agreement. All of these

¹Simply because this complaint was resubmitted under oath after first being rejected by the Commission does nothing to change the fact that it is based not on first hand knowledge or even on information and belief, but rather only on suspicion and speculation.

expenditures have been duly disclosed on the Committee's reports of receipts and disbursements and are backed up with appropriate invoices and documentation, which will, of course, be available to the Commission in the audit process. There is no reason to believe that the Committee made any expenditures for the purposes suspected by complainant.

No evidence to the contrary has been submitted with the complaint. No information is attached thereto. If the complainant cannot cite even a single specific example as to where the Committee's payments were not for qualified campaign expenses, then it has failed to meet the barest threshold for sustaining these baseless charges.

The Commission should not take biased unsubstantiated suspicions submitted by complainant and proceed to investigate something which will be reviewed in the Commission's normal course of business. There is simply no reason to believe that the Committee has engaged in any of the speculative activities of which complainant suspects.

Accordingly, and contrary to the requirement of 11 C.F.R. §111.4(d)(3), this complaint fails to provide a clear and concise recitation of facts which constitute a violation of the Act. Merely questioning whether a violation occurred, without providing more specific facts regarding an actual occurrence of a violation, is insufficient to constitute a valid FEC complaint under the regulations, and this matter should be dismissed.

Therefore, for the reasons stated above, we respectfully request that the Commission find no reason to believe that any violation of the Act or regulations has occurred and close this matter.

Respectfully submitted,


Lyn Utrecht
General Counsel


Eric Kleinfeld
Chief Counsel